

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation )  
Against: )

**ERIC ADAM MARKS, M.D.** )

File No. 16-2006-178441

Physician's and Surgeon's )  
Certificate No. G-71565 )

Respondent )  
\_\_\_\_\_ )

**DECISION**

The attached Stipulation for Settlement is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on April 9, 2007.

IT IS SO ORDERED March 9, 2007.

MEDICAL BOARD OF CALIFORNIA

By: 

**Barbara Yaroslavsky, Chair**  
Panel B  
Division of Medical Quality

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General  
3 SUSAN K. MEADOWS, State Bar No. 115092  
Deputy Attorney General  
4 California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
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6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**  
9 **DIVISION OF MEDICAL QUALITY**  
10 **MEDICAL BOARD OF CALIFORNIA**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 16-2006-178441

14 ERIC ADAM MARKS, M.D.  
15 740 Hospital Drive, Suite 280  
16 Beaumont, TX 77701

**STIPULATION FOR SETTLEMENT**

17 Address of Record

18 Physician's and Surgeon's Certificate  
19 No. G 71565

Respondent.

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. David T. Thornton (Complainant) is the Executive Director of the Medical Board  
23 of California. He brought this action solely in his official capacity and is represented in this  
24 matter by Edmund G. Brown Jr., Attorney General of the State of California, by Susan K.  
25 Meadows, Deputy Attorney General.

26 2. Respondent Eric Adam Marks, M.D. ("respondent") is representing himself in this  
27 matter.

28 3. On or about June 11, 1991, the Medical Board of California issued Physician's

1 and Surgeon's Certificate No. G 71565 to respondent. The Certificate is renewed and current  
2 with an expiration date of September 30, 2008.

### 3 JURISDICTION

4 4. Accusation No. 16-2006-178441 ("Accusation") was filed before the Division of  
5 Medical Quality (Division) for the Medical Board of California, Department of Consumer  
6 Affairs, and is currently pending against respondent. The Accusation and all other statutorily  
7 required documents were properly served on respondent. Respondent timely filed his Notice of  
8 Defense contesting the Accusation. A copy of the Accusation is attached as Exhibit A and  
9 incorporated herein by reference.

### 10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and fully understands the charges and allegations  
12 in Accusation. Respondent has also carefully read and understands the effects of this Stipulated  
13 Settlement and Disciplinary Order. Respondent is fully aware of his right to be represented by  
14 counsel in this matter and hereby knowingly and voluntarily waives that right.

15 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
17 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
19 documents; the right to reconsideration and court review of an adverse decision; and all other  
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each  
22 and every right set forth above.

### 23 CULPABILITY

24 8. Respondent admits to the charges and allegations contained in the Accusation and  
25 that cause exists to impose discipline on his license, and that he agrees to be bound by the  
26 Division of Medical Quality's imposition of discipline as set forth in the Disciplinary Order  
27 below.

28 9. Respondent agrees that if he ever petitions for early termination or modification of

1 probation, all of the charges and allegations contained in the Accusation shall be deemed true and  
2 correct for purposes of that proceeding or any other licensing proceeding involving respondent in  
3 the State of California.

#### 4 CONTINGENCY

5 10. This stipulation shall be subject to approval by the Division of Medical Quality.  
6 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
7 Board of California may communicate directly with the Division regarding this stipulation and  
8 settlement, without notice to or participation by respondent or his counsel. By signing the  
9 stipulation, respondent understands and agrees that he may not withdraw his agreement or seek to  
10 rescind the stipulation prior to the time the Division considers and acts upon it. If the Division  
11 fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and  
12 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be  
13 inadmissible in any legal action between the parties, and the Division shall not be disqualified  
14 from further action by having considered this matter.

15 11. The parties understand and agree that facsimile copies of this Stipulated  
16 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
17 force and effect as the originals.

18 12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein  
19 to be an integrated writing representing the complete, final and exclusive embodiment of the  
20 agreements of the parties.

21 13. In consideration of the foregoing admissions and stipulations, the parties agree  
22 that the Division may, without further notice or formal proceeding, issue and enter the following  
23 Disciplinary Order:

#### 24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate  
26 No. G 71565 issued to respondent ERIC ADAM MARKS, M.D., is revoked. However, the  
27 revocation is stayed and respondent is placed on probation for three (3) years on the following  
28 terms and conditions.

1           1.       CLINICAL TRAINING PROGRAM: Within 60 calendar days of the effective  
2 date of this Decision, respondent shall enroll in a clinical training or educational program  
3 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at the  
4 University of California - San Diego School of Medicine ("Program").

5           The Program shall consist of a Comprehensive Assessment program comprised of  
6 a two-day assessment of respondent's physical and mental health; basic clinical and  
7 communication skills common to all clinicians; and medical knowledge, skill and judgment  
8 pertaining to respondent's specialty or sub-specialty, and at minimum, a 40 hour program of  
9 clinical education in the area of practice in which respondent was alleged to be deficient and  
10 which takes into account data obtained from the assessment, Decision(s), Accusation(s), and any  
11 other information that the Division or its designee deems relevant. Respondent shall pay all  
12 expenses associated with the clinical training program.

13           Based on respondent's performance and test results in the assessment and clinical  
14 education, the Program will advise the Division or its designee of its recommendation(s) for the  
15 scope and length of any additional educational or clinical training, treatment for any medical  
16 condition, treatment for any psychological condition, or anything else affecting respondent's  
17 practice of medicine. Respondent shall comply with Program recommendations.

18           At the completion of any additional educational or clinical training, respondent  
19 shall submit to and pass an examination. The Program's determination whether or not  
20 respondent passed the examination or successfully completed the Program shall be binding.

21           Respondent shall complete the Program not later than six months after  
22 respondent's initial enrollment unless the Division or its designee agrees in writing to a later time  
23 for completion.

24           Failure to participate in and complete successfully all phases of the clinical  
25 training program outlined above is a violation of probation.

26           2.       EDUCATION COURSE Within 60 calendar days of the effective date of this  
27 Decision, and on an annual basis thereafter, respondent shall submit to the Division or its  
28 designee for its prior approval educational program(s) or course(s) which shall not be less than

20 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be Category I certified, limited to classroom, conference, or seminar settings. The educational program(s) or course(s) shall be at respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Division or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 45 hours of continuing medical education of which 20 hours were in satisfaction of this condition.

### **STANDARD TERMS AND CONDITIONS**

1. **NOTIFICATION** Prior to engaging in the practice of medicine, the respondent shall provide a true copy of the Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to respondent, at any other facility where respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to respondent. Respondent shall submit proof of compliance to the Division or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

2. **SUPERVISION OF PHYSICIAN ASSISTANTS** During probation, respondent is prohibited from supervising physician assistants.

3. **OBEY ALL LAWS** Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California, and remain in full compliance with any court ordered criminal probation, payments and other orders.

4. **QUARTERLY DECLARATIONS** Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation. Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

5. **PROBATION UNIT COMPLIANCE** Respondent shall comply with the

1 Division's probation unit. Respondent shall, at all times, keep the Division informed of  
2 respondent's business and residence addresses. Changes of such addresses shall be immediately  
3 communicated in writing to the Division or its designee. Under no circumstances shall a post  
4 office box serve as an address of record, except as allowed by Business and Professions Code  
5 section 2021(b).

6 Respondent shall not engage in the practice of medicine in respondent's place of  
7 residence. Respondent shall maintain a current and renewed California physician's and  
8 surgeon's license.

9 Respondent shall immediately inform the Division, or its designee, in writing, of travel to  
10 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than  
11 30 calendar days.

12 6. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent shall be  
13 available in person for interviews either at respondent's place of business or at the probation unit  
14 office, with the Division or its designee, upon request at various intervals, and either with or  
15 without prior notice throughout the term of probation.

16 7. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent should  
17 leave the State of California to reside or to practice, respondent shall notify the Division or its  
18 designee in writing 30 calendar days prior to the dates of departure and return. Non-practice is  
19 defined as any period of time exceeding 30 calendar days in which respondent is not engaging in  
20 any activities defined in Sections 2051 and 2052 of the Business and Professions Code.

21 All time spent in an intensive training program outside the State of California which has  
22 been approved by the Division or its designee shall be considered as time spent in the practice of  
23 medicine within the State. A Board-ordered suspension of practice shall not be considered as a  
24 period of non-practice. Periods of temporary or permanent residence or practice outside  
25 California will not apply to the reduction of the probationary term. Periods of temporary or  
26 permanent residence or practice outside California will relieve respondent of the responsibility to  
27 comply with the probationary terms and conditions with the exception of this condition and the  
28 following terms and conditions of probation: Obey All Laws and Probation Unit Compliance.

1           Respondent's license shall be automatically canceled if respondent's periods of temporary  
2 or permanent residence or practice outside California total two years. However, respondent's  
3 license shall not be canceled as long as respondent is residing and practicing medicine in another  
4 state of the United States and is on active probation with the medical licensing authority of that  
5 state, in which case the two year period shall begin on the date probation is completed or  
6 terminated in that state.

7           Any respondent disciplined under Business and Professions Code sections 141(a) and/or  
8 2305 may petition for modification or termination of penalty: 1) if the other state's discipline  
9 terms are modified, terminated or reduced; and, 2) if at least one year has elapsed from the  
10 effective date of the California discipline.

11           8.     FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT In the  
12 event respondent resides in the State of California and for any reason respondent stops practicing  
13 medicine in California, respondent shall notify the Division or its designee in writing within 30  
14 calendar days prior to the dates of non-practice and return to practice. Any period of non-  
15 practice within California, as defined in this condition, will not apply to the reduction of the  
16 probationary term and does not relieve respondent of the responsibility to comply with the terms  
17 and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar  
18 days in which respondent is not engaging in any activities defined in sections 2051 and 2052 of  
19 the Business and Professions Code.

20           All time spent in an intensive training program which has been approved by the Division  
21 or its designee shall be considered time spent in the practice of medicine. For purposes of this  
22 condition, non-practice due to a Board-ordered suspension or in compliance with any other  
23 condition of probation, shall not be considered a period of non-practice.

24           Respondent's license shall be automatically canceled if respondent resides in California  
25 and for a total of two years, fails to engage in California in any of the activities described in  
26 Business and Professions Code sections 2051 and 2052.

27           9.     COMPLETION OF PROBATION Respondent shall comply with all financial  
28 obligations (e.g., probation costs) not later than 120 calendar days prior to the completion of



1 probation. Upon successful completion of probation, respondent's certificate shall be fully  
2 restored.

3 10. VIOLATION OF PROBATION Failure to fully comply with any term or  
4 condition of probation is a violation of probation. If respondent violates probation in any respect,  
5 the Division, after giving respondent notice and the opportunity to be heard, may revoke  
6 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to  
7 Revoke Probation, or an Interim Suspension Order is filed against respondent during probation,  
8 the Division shall have continuing jurisdiction until the matter is final, and the period of  
9 probation shall be extended until the matter is final.

10 11. LICENSE SURRENDER Following the effective date of this Decision, if  
11 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy  
12 the terms and conditions of probation, respondent may request the voluntary surrender of  
13 respondent's license. The Division reserves the right to evaluate respondent's request and to  
14 exercise its discretion whether or not to grant the request, or to take any other action deemed  
15 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,  
16 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the  
17 Division or its designee and respondent shall no longer practice medicine. Respondent will no  
18 longer be subject to the terms and conditions of probation and the surrender of respondent's  
19 license shall be deemed disciplinary action. If respondent re-applies for a medical license, the  
20 application shall be treated as a petition for reinstatement of a revoked certificate.

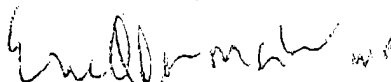
21 12. PROBATION MONITORING COSTS Respondent shall pay the costs  
22 associated with probation monitoring each and every year of probation, as designated by the  
23 Division, which may be adjusted on an annual basis. Such costs shall be payable to the Medical  
24 Board of California and delivered to the Division or its designee no later than January 31 of each  
25 calendar year. Failure to pay costs within 30 calendar days of the due date is a violation of  
26 probation.

#### 27 ACCEPTANCE

28 I have carefully read the above Stipulated Settlement and Disciplinary Order, and I

1 understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate.  
2 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and  
3 intelligently, and agree to be bound by the Decision and Order of the Division of Medical  
4 Quality, Medical Board of California.

5 DATED: 1/29/07

6  
7   
8 ERIC ADAMS MARKS, M.D.  
Respondent, in pro per

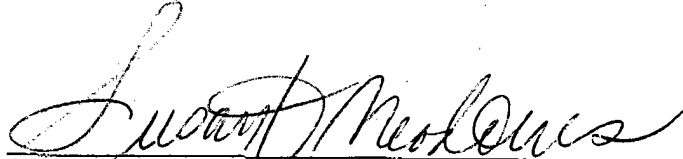
9 **ENDORSEMENT**

10 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
11 submitted for consideration by the Division of Medical Quality, Medical Board of California of  
12 the Department of Consumer Affairs.

13 DATED: 1-31-07

14  
15 EDMUND G. BROWN JR., Attorney General  
of the State of California

16 JOSE R. GUERRERO  
17 Supervising Deputy Attorney General

18  
19   
20 SUSAN K. MEADOWS  
Deputy Attorney General

21 Attorneys for Complainant

22 MARKSERICSTIPULATION.wpd

# **EXHIBIT A**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JOSE R. GUERRERO  
Supervising Deputy Attorney General [97276]  
3 SUSAN K. MEADOWS  
Deputy Attorney General [115092]  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, California 94102  
5 Telephone: (415) 703-5552  
Facsimile: (415) 703-5480

**BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

## ACCUSATION

Respondent.

## PARTIES

2. On or about June 11, 1991, Physician and Surgeon's Certificate No. G 71565 was issued by the Board to Eric Adam Marks, M.D. (hereinafter "respondent"). This certificate is renewed and current with an expiration date of September 30, 2008.

1.

## JURISDICTION

3. This accusation is brought before the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs (hereinafter the "Division"), under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period of not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring if probation is imposed.

B. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

C. Section 141 of the Code provides:

"(a) For any licensee holding a license issued by a board under the jurisdiction of a department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or by another country shall be conclusive evidence of the events related therein."

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by the board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

4. Respondent is subject to discipline within the meaning of section 2305

1 and/or section 141 of the Code as more particularly set forth herein below.

2 **FIRST CAUSE FOR DISCIPLINE**

3 ( Discipline, Restriction, or Limitation Imposed by Another State)

4 5. On August 25, 2006, the Texas Board of State Medical Examiners  
5 (hereinafter "Texas Board") issued an Agreed Order assessing an administrative fine of three  
6 thousand dollars, and ordering respondent to comply with terms and conditions for three years  
7 from the date of the order which include monitoring by a physician monitor, 10 hours of  
8 continuing medical education in medical record keeping, and 10 hours of continuing medical  
9 education in cardiovascular disease. The basis for this action was failing to meet the standard of  
10 care in evaluating and monitoring the treatment of a patient who presented with complaints of  
11 chest pain and shortness of breath.

12 6. Attached hereto as Exhibit A and made a part hereof is a certified copy of  
13 the Texas Board's Agreed Order.

14 7. The action by the Texas Board regarding respondent's license to practice  
15 medicine, as set forth above, constitutes unprofessional conduct and/or grounds for disciplinary  
16 action within the meaning of section 2305 of the Code and/or section 141(a) of the Code.  
17 Therefore, cause for discipline exists.

18 **PRAYER**

19 **WHEREFORE**, the complainant requests that a hearing be held on the matters  
20 herein alleged, and that following the hearing, the Division issue a decision:

21 1. Revoking or suspending Physician and Surgeon's Certificate Number G  
22 71565 heretofore issued to respondent;

23 2. Ordering respondent to pay the Division the costs of probation monitoring  
24 upon order of the Division; and,

25 3. Revoking, suspending or denying approval of the respondent's authority to  
26 supervise physician assistants; and,  
27

1                   4.     Taking such other and further action as the Division deems necessary and  
2 proper,

3     DATED: November 22, 2006

4  
5                   

6                   **DAVID T. THORNTON**  
7                   Executive Director  
8                   Medical Board of California  
9                   Department of Consumer Affairs  
10                  State of California

11                  Complainant

12     Marks.acc

13     Exhibit A: Copy of Texas Board Agreed Order

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## EXHIBIT A



LICENSE NO. K-3325

IN THE MATTER OF  
THE LICENSE OF  
ERIC ADAM MARKS, M.D.

BEFORE THE  
TEXAS MEDICAL BOARD

AGREED ORDER

On the 25<sup>th</sup> day of August, 2006, came on to be heard before the Texas Medical Board (the "Board"), duly in session, the matter of the license of Eric Adam Marks, M.D. ("Respondent").

On May 9, 2006, Respondent appeared in person, with counsel Michael Feehan, at an Informal Show Compliance Proceeding and Settlement Conference in response to a letter of invitation from the staff of the Board. Roger Calhoun for Dinah Brothers represented Board staff. The Board's representatives were Larry Price, D.O. and Patricia Blackwell, members of the Board.

Upon the recommendation of the Board's representatives and with the consent of Respondent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order.

FINDINGS OF FACT

The Board finds that:

1. Respondent received all notice required by law. All jurisdictional requirements have been satisfied. Respondent waives any defect in notice and any further right to notice or hearing under the Medical Practice Act, Title 3, Subtitle B, Texas Occupations Code (the "Act") or the Rules of the Board.
2. Respondent currently holds Texas Medical License No. K-3325. Respondent was originally issued this license to practice medicine in Texas on August 9, 1997. Respondent is also licensed to practice in California.

3. Respondent is primarily engaged in the practice of internal medicine. Respondent is board certified in this specialty by the American Board of Internal Medicine.

4. Respondent is 43 years of age.

5. Respondent has not previously been the subject of disciplinary action by the Board.

6. Board staff alleged that Respondent failed to meet the standard of care in his care and treatment of patient N.C.

7. Patient N.C. saw Respondent from 1998 – 2000 for a variety of complaints.

8. On November 13, 2000 she was seen with complaints of chest pain and shortness of breath. At the time of this visit the patient was 61 years old and had several risk factors for coronary artery disease. Respondent ordered several tests including EKG and ECHO and diagnosed her with atypical chest pain, shortness of breath, COPD, hypertension and carotid bruit.

9. Two weeks later the patient collapsed at home and CPR was initiated. She was transported via EMS in full arrest to the hospital where she died shortly after arrival.

10. Respondent failed to meet the standard of care for the following reasons:

- He failed to appropriately monitor the patient.
- On the November 13<sup>th</sup> visit he did not adequately evaluate the patients complaints of chest pain.

11. Respondent has cooperated in the investigation of the allegations related to this Agreed Order. Respondent's cooperation, through consent to this Agreed Order, pursuant to the provisions of Section 164.002 the Act, will save money and resources for the State of Texas. To avoid further investigation, hearings, and the expense and inconvenience of litigation, Respondent agrees to the entry of this Agreed Order and to comply with its terms and conditions.

#### CONCLUSIONS OF LAW

Based on the above Findings of Fact, the Board concludes that:

1. The Board has jurisdiction over the subject matter and Respondent pursuant to the Act.

2. Section 164.051(a)(6) of the Act authorizes the Board to take disciplinary action against Respondent based on Respondent's failure to practice medicine in an acceptable professional manner consistent with public health and welfare.

3. Section 164.001 of the Act authorizes the Board to impose a range of disciplinary actions against a person for violation of the Act or a Board rule. Such sanctions include: revocation, suspension, probation, public reprimand, limitation or restriction on practice, counseling or treatment, required educational or counseling programs, monitored practice, public service, and an administrative penalty.

4. Section 164.002(a) of the Act authorizes the Board to resolve and make a disposition of this matter through an Agreed Order.

5. Section 164.002(d) of the Act provides that this Agreed Order is a settlement agreement under the Texas Rules of Evidence for purposes of civil litigation.

#### ORDER

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that: Respondent shall comply with the following terms and conditions for three years from the date of entry of this Order:

1. While under the terms of this Order, Respondent's practice shall be monitored by a physician ("monitor"), in accordance with §164.001(b)(7) of the Act. The Compliance Division of the Board shall designate the monitor and may change the monitor at any time for any reason. The monitor shall have expertise in a similar specialty area as Respondent. The Compliance Division shall provide a copy of this Order to the monitor, together with other information necessary to assist the monitor.

a. As requested by the Compliance Division, Respondent shall prepare and provide complete legible copies of selected patient medical and billing records ("selected records"). The Compliance Division shall select records for at least thirty patients seen by Respondent during each three-month period following the last day of the month of entry of this Order ("reporting period"). The Compliance Division may select records for more than thirty patients, up to ten percent of the patients seen during a reporting period. If Respondent fails to see at least thirty patients during any three-month period, the term of this Order shall be extended until Respondent can submit a sufficient number of records for a monitor to review.

b. The monitor shall perform the following duties:

1) Personally review the selected records;

- 2) Prepare written reports documenting any perceived deficiencies and any recommendations to improve Respondent's practice of medicine or assist in the ongoing monitoring process. Reports shall be submitted as requested by the Compliance Division; and
- 3) Perform any other duty that the Compliance Division determines will assist the effective monitoring of Respondent's practice.

c. The Compliance Division shall provide to Respondent a copy of any deficiencies or recommendations submitted by the monitor. Respondent shall implement the recommendations as directed by the Compliance Division.

d. The monitor shall be the agent of the Board, but shall be compensated by the Respondent through the Board. Such compensation and any costs incurred by the monitor shall be paid by Respondent to the Board and remitted by the Board to the monitor. Respondent shall not charge the compensation and costs paid to the monitor to any patients.

2. For each year of this Order, Respondent shall enroll in and successfully complete a course in record keeping of at least 10 hours in duration, approved in writing in advance by the Executive Director of the Board. To obtain approval for the course, Respondent shall submit in writing to the Director of Compliance for the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

3. For each year of this Order, Respondent shall enroll in and successfully complete a course in cardiovascular disease of at least 10 hours in duration, approved in writing in advance by the Executive Director of the Board. To obtain approval for the course, Respondent shall submit in writing to the Director of Compliance for the Board information on the course, to include at least a reasonably detailed description of the course content and faculty, as well as the course location and dates of instruction. Respondent shall submit documentation of attendance and successful completion of this requirement to the Director of Compliance for the Board on or before the expiration of the time limit set forth for completion of the course.

4. Respondent shall pay an administrative penalty in the amount of \$3000 within 120 days of the entry of this Order. The administrative penalty shall be paid in a single payment by

cashier's check or money order payable to the Texas Medical Board and shall be submitted to the Director of Compliance for the Board for routing so as to be remitted to the Comptroller of Texas for deposit in the general revenue fund. Respondent's failure to pay the administrative penalty as ordered shall constitute grounds for further disciplinary action by the Board, and may result in a referral by the Executive Director of the Board for collection by the Office of the Attorney General.

5. Respondent shall be permitted to supervise and delegate prescriptive authority to physician assistants and advanced practice nurses and to supervise surgical assistants.

6. The time period of this Order shall be extended for any period of time that (a) Respondent subsequently resides or practices outside the State of Texas, (b) Respondent's license is subsequently canceled for nonpayment of licensure fees, or (c) this Order is stayed or enjoined by Court Order. If Respondent leaves Texas to live or practice elsewhere, Respondent shall immediately notify the Board in writing of the dates of Respondent's departure from and subsequent return to Texas. When the period of extension ends, Respondent shall be required to comply with the terms of this Order for the period of time remaining on the extended Order. Respondent shall pay all fees for reinstatement or renewal of a license covering the period of extension.

7. Respondent shall comply with all the provisions of the Act and other statutes regulating the Respondent's practice.

8. Respondent shall fully cooperate with the Board and the Board staff, including Board attorneys, investigators, compliance officers, consultants, and other employees or agents of the Board in any way involved in investigation, review, or monitoring associated with Respondent's compliance with this Order. Failure to fully cooperate shall constitute a violation of this order and a basis for disciplinary action against Respondent pursuant to the Act.

9. Respondent shall inform the Board in writing of any change of Respondent's mailing or practice address within ten days of the address change. This information shall be submitted to the Permits Department and the Director of Compliance for the Board. Failure to provide such information in a timely manner shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act.

10. Any violation of the terms, conditions, or requirements of this Order by Respondent shall constitute unprofessional conduct likely to deceive or defraud the public, and to injure the

public, and shall constitute a basis for disciplinary action by the Board against Respondent pursuant to the Act. Respondent agrees that ten days notice of a Probationer Show Compliance Proceeding to address any allegation of non-compliance of this Agreed Order is adequate and reasonable notice prior to the initiation of formal disciplinary action. Respondent waives the 30 day notice requirement provided by §164.003(b)(2) of the Medical Practice Act and agrees to 10 days notice, as provided in 22 Texas Administrative Code §187.44(4).

11. The above-referenced conditions shall continue in full force and effect without opportunity for amendment, except for clear error in drafting, for 12 months following entry of this Order. If, after the passage of the 12-month period, Respondent wishes to seek amendment or termination of these conditions, Respondent may petition the Board in writing. The Board may inquire into the request and may, in its sole discretion, grant or deny the petition without further appeal or review. Petitions for modifying or terminating may be filed only once a year thereafter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

THIS ORDER IS A PUBLIC RECORD.

I, ERIC ADAM MARKS, M.D., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT BY SIGNING, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THIS AGREED ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.

DATED: 7/20, 2006.

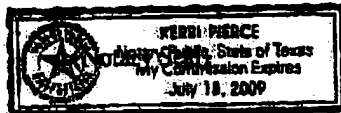
*Eric Adam Marks*

Eric Adam Marks, M.D.  
Respondent

STATE OF Texas  
COUNTY OF Jefferson

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SWORN TO AND ACKNOWLEDGED BEFORE ME, the undersigned Notary Public, on this 20th day of July, 2006.



*[Signature]*  
Signature of Notary Public

25th SIGNED AND ENTERED by the presiding officer of the Texas Medical Board on this day of August, 2006.

*[Signature]*  
for Roberta M. Kalafut, D.O., President  
Texas Medical Board

STATE OF TEXAS  
COUNTY OF JEFFERSON